

REMARKS

Status of the claims:

With the above amendments, claims 1, 16-19, 23, and 35 are amended, and claims 1-12, 14-35, and 37-48 are pending with claims 14, 15, 22, 24, and 26-33 having been withdrawn from a prior restriction requirement. Thus, claims 1-12, 16-21, 23, 25, 34, 35, and 37-48 are ready for further action on the merits. No new matter has been added by way of the above amendments. The amendments to claims 1 and 23 have support at page 24, lines 13-16. All other amendments are to omit "preventing" language in the claims. Reconsideration is respectfully requested in light of the following remarks.

Election/Restriction

The Examiner asserts that claims 14, 15, 22, 23, 24, 25, and 27-34 are withdrawn from consideration as being directed to non-elected subject matter, citing the Office Action of June 27, 2003. However, a review of the Office Action Summary from the Office Action of June 27, 2003 shows that claims 14, 15, 22, 24, and 26-33 are withdrawn from consideration. Thus, there seems to be a discrepancy regarding claims 23, 25, 26, and 34 as to whether they are withdrawn or being examined. Applicants respectfully request that the Examiner clarify his position on these claims in the next communication.

Rejections under 35 USC §112, second paragraph

Claim 20 remains rejected under 35 USC §112, second paragraph as being indefinite. The Examiner asserts that claim 20 has not been defined by a structure. Applicants disagree. Applicants submit that claim 20 has been defined by a definite structure. Because claim 20 is dependent from claim 1, all of the elements of claim 1 are read into claim 20. Thus, Applicants believe that claim 20 is defined structurally. The rejection is inapposite. Withdrawal of the rejection is warranted and respectfully requested.

Claims 1-12, 21, and 26 are rejected under 35 USC §112, second paragraph because the Examiner asserts that it is unknown what is meant by heteroaryl in the definitions of components R³ and Ar in the claims. Applicants have amended claims 1 and 23 to include the definitions of heteroaryl, which has support at page 24, lines 13-16. Accordingly, Applicants believe that these claims can no longer be considered vague or indefinite. Withdrawal of the rejection is warranted and respectfully requested.

Rejections under 35 USC §112, first paragraph

Claims 16-19 and 35 are rejected under 35 USC §112, first paragraph as lacking enablement. The Examiner asserts that the claims are not enabled for "preventing diabetes mellitus".

Applicants have amended the claims so that "preventing" no longer appears in any of the claims. Thus, the rejection is now moot. Withdrawal of the rejection is warranted and respectfully requested.

Allowable Subject Matter

Applicants would like to thank the Examiner for acknowledging that claims 37-48 are allowable if made independent. Applicants believe that because all of the rejections have been obviated, all pending claims are now allowable.

Accordingly, with the above remarks and amendments, Applicants believe that the claims, as they now stand, define patentable subject matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  _____

Marc S. Weiner, #32,181


MSW/TBS/mua

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000